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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,660	02/04/2005	John Russell Watts	CQ10135	8505
23373 7590 08/20/2007 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER ESTREMSKY, GARY WAYNE	
			ART UNIT 3676	PAPER NUMBER
			MAIL DATE 08/20/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/523,660

Applicant(s)

WATTS, JOHN RUSSELL

Examiner

Gary Estremsky

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3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/13/07 has been entered.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 –8 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 6,546,671 to Mitchell.

Mitchell '671 teaches Applicant's claim limitations for a lock including : a "strike plate" – as shown in Fig 23 for example, an "engageable aperture within a substantially planar portion of the strike plate" – opening indicated at reference numeral 132 in the planar portion generally indicated at 130, "comprising an entry aperture" – large portion of opening on either left or right side as shown, "and an offset aperture" – the smaller

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central aperture portion, a “lock body” – including 78,80, an “angularly displaceable bolt” – as shown in Fig 15 for example, “having a leading edge” – including portion at 198 for example, “and at least one side recess” – including recessed portion near 202, “relatively protruding side shoulder” – the generally circumferential wall defining the change in thickness from the outer thick portion of the bolt to the inner reduced thickness recess portion. Though a “hinged door” is functionally recited and not claimed as part of the invention, the bolt of the reference is explicitly disclosed to be displaceable about an axis that is orthogonal to the top face of 62. In any case, the tilt window of the reference reads on broadly-recited “hinged door”. One of ordinary skill in the art would recognize that due to the geometry of the entry portion of the bolt and the entry portion of the aperture; considerable range in dispositions and gap between the aperture and bolt can be tolerated and still result in successful closing and cam-action pulling in of the latch and strike as well known in the art. In any case, the broadly-recited functional limitation has not clearly defined any particular structure that can be relied upon to patentably distinguish from the well known structure of the prior art.

As regards claim 2, when used with a hinged door, the lock of the reference inherently restrains as claimed due to the geometry and inter-engagement of the bolt and strike.

As regards claim 3, one of ordinary skill in the art should recognize that the bolt of the reference inherently fits the width of the aperture of the strike with enough tolerance to allow operation as well known in the art whereby that geometry, at least, reads on broad limitation.

As regards claims 13, reference discloses portions at 126,128,134,136,138,138 that have geometry that reads on present limitation.

As regards claims 13 and 14, the analogous bridge portions of the reference are relatively thinner than the bolt and are otherwise inherently "deformable by the bolt whereby to enable the offset aperture and surrounding material to be displaced horizontally". The limitation is interpreted as setting forth a capability (deformable - *capable of being deformed*) of the claim elements, not a *step* in a method of using. It has been held that the recitation that an element is "capable of" performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,546,671 to Mitchell in view of U.S. Pat. No. 4,063,766 to Granberg.

Although Mitchell '671 does not disclose the bolt to be biased, Granberg '766 discloses that it is well known in the art to provide a bolt with bias and to provide a "pre-latching, partly extended portion" – 42. it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the bolt of Mitchell '671 with spring bias and pre-latching, partly extended portion as taught by Granberg '766 in order to adapt the lock for automatic operation as taught by Granberg '766.

Response to Arguments

5. Applicant's arguments have been fully considered but they are not all fully persuasive. Applicant argues that Mitchell '766 does not disclose a self latching bolt but that limitation is not claimed. Applicant argues that Mitchell '766 does not disclose a range of relative dispositions and a range of gap but those arrangement(s) are not positively defined as part of the invention but are recited functionally as a capability of the claim elements but have not otherwise further defined any particular structure that can be relied upon to patentably distinguish from the well known prior art structure. Regardless, it's examiner's position that sliding/tilting window of the reference inherently teaches a range of relative dispositions and a range of gap between the apertures and the lock body.

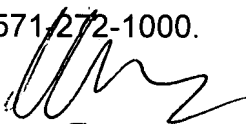
Arguments against rejection previously made under 35 USC 103 are moot in view of the amended claims which have required a new grounds of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 571 272-7055. The examiner can normally be reached on M-Thur 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Gary Estremsky
Primary Examiner
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